

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 KENNETH MANNING,

4 *Plaintiff,*

5 vs.

6 STATE OF NEVADA, *et al.*,

7 *Defendants.*
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2:13-cv-01222-GMN-PAL

ORDER

10 This closed prisoner civil rights action comes before the Court on multiple frivolous one-
11 page post-judgment motions filed by plaintiff, including six motions (## 9-14) to strike in effect
12 the order and judgment of dismissal and one motion (#15) to strike and to amend the complaint,
13 with no amended pleading.

14 The cover letter (#9-1) submitted with the motions is dated December 3, 2013, within
15 the time for seeking relief under Rule 59 of the Federal Rules of Civil Procedure. However, the
16 remaining papers all carry later dates, and the motions were received and filed by the Clerk at
17 the same time on December 10, 2013. It thus is not evident that the motions were mailed for
18 filing prior to the expiration of the time for seeking relief under Rule 59 rather than Rule 60.

19 The motions are frivolous and will be denied. Plaintiff simply states in the motions in
20 the main that he wants documents stricken that were filed in the action during the month of
21 November 2013, during which the order and judgment of dismissal were entered. The matter
22 was dismissed because: (a) plaintiff long since has “struck out” under 28 U.S.C. § 1915(g) by
23 filing multiple frivolous or meritless actions; (b) plaintiff’s allegation of imminent danger was
24 conclusory and frivolous on its face; and (c) plaintiff neither had the funds to pay the filing fee
25 nor had paid the filing fee in substantially similar recent cases after having been afforded an
26 opportunity to do so. The Court accordingly expressly found that further proceedings herein
27 prior to a dismissal without prejudice would be a waste of limited judicial resources. An order
28 striking the properly entered order and judgment of dismissal is not available merely by the

1 asking, whether under Rule 59 or Rule 60.

2 Given plaintiff's continuing pattern of vexatious litigation activity, which is outlined
3 further in the order of dismissal, the Court will direct the Clerk to designate plaintiff as a
4 restricted filer on the docket of this action and to return unfiled any papers submitted hereafter
5 in this closed action by plaintiff other than a notice of appeal.

6 **IT THEREFORE IS ORDERED** that all pending motions are **DENIED**.

7 **IT FURTHER IS ORDERED** that the Clerk shall designate plaintiff as a restricted filer
8 on the docket sheet and shall return unfiled any papers submitted hereafter by plaintiff in this
9 action other than a notice of appeal.

10 **DATED** this 23rd day of June, 2014.

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15 Gloria M. Navarro, Chief Judge
16 United States District Court
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